

1 P. Kristofer Strojnik, SBN 242728
2 Law Offices of Peter Strojnik
3 pstrojnik@strojniklaw.com
4 Esplanade Center III, Suite 700
5 2415 East Camelback Road
6 Phoenix, Arizona 85016
7 602.510.9409 (tel.)

8 Attorneys for Plaintiff

9
10 **UNITED STATES DISTRICT COURT**

11
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 THERESA BROOKE, a married woman
14 dealing with her sole and separate claim,

15 Case No:

16 Plaintiff,
17 vs.

18 **VERIFIED COMPLAINT**

19 NAPA MILL LLC, a California limited
20 liability company dba Napa River Inn,

21 **(JURY TRIAL DEMANDED)**

22 Defendant.

23 Plaintiff Theresa Marie Brooke alleges:

24
25 **PARTIES**

26 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
27 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
28 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
to the loss of a leg.

29 2. Defendant, Napa Mill LLC, owns and/or operates and does business as
30 the hotel Napa River Inn located at 500 Main Street in Napa, California. Defendant's
31 hotel is a public accommodation pursuant to 42 U.S.C. § 12181(7)(A), which offers
32 public lodging services. On information and belief, Defendant's hotel was renovated
33 after March 15, 2012.

JURISDICTION

2 3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42
3 U.S.C. § 12188.

4 4. The Court has supplemental jurisdiction over the state law claim. 28
5 U.S.C. § 1337.

6 5. Plaintiff's claims asserted herein arose in this judicial district and
7 Defendant does substantial business in this judicial district.

8 6. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c)
9 in that this is the judicial district in which a substantial part of the acts and omissions
10 giving rise to the claims occurred.

ALLEGATIONS

12 7. Plaintiff formerly worked in the hospitality industry and her husband
13 works in the travel industry. She and her husband are avid travelers to California for
14 purposes of leisure travel, court-related hearings, conferences and inspections, and to
15 “test” whether various hotels across the Country comply with disability access laws.
16 She has been to California countless times over the past few years for purposes of
17 checking ADA compliance, leisure travel, and court-related conferences.

18 8. On or about July 18 through July 20, Plaintiff and her husband visited
19 north of San Francisco for a trip and to engage in ADA testing at various hotels and to
20 enjoy the nicer summer weather than Arizona.

21 9. During Plaintiff's trip, she visited Defendant's hotel, but she could not
22 access the interior of the hotel. Defendant's hotel has specific parking spots for
23 registration at the hotel, but Defendant did not provide a handicap spot in the same area
24 near the hotel lobby for registration that had a clear path or access aisle from the
25 parking lot to the lobby. Plaintiff was not able to access the lobby from the registration
26 area.

27 10. Below please find an accurate depiction of the subject area of the hotel,
28 which shows the lack of access from the parking area.



11. As a person in a wheelchair and because of the barrier identified herein,
12 Plaintiff was deprived of full and equal access to the hotel interior.

13. Deterred at the lack of equality and inability to even access the lobby
14 from the passenger loading zone, Plaintiff did not and could not access the hotel as an
15 able-bodied consumer can. Plaintiff will not visit Defendant's hotel in the future until
it provides free and equal access to the entirety of its property.

16. Specifically, Defendant must provide a disabled parking area within the
17 "registration parking" area identified in the photograph, provide an access aisle from
18 that spot to the lobby, and provide signage directing a disabled person from that spot to
the lobby that provides a clear path without curbs or other encumbrances.

19. Plaintiff also intends on visiting the north of San Francisco again later this
20 summer for leisure and further ADA testing and will visit Defendant's hotel if it
21 remediates the barrier at issue. If remediation occurs, Plaintiff can then gain equal
22 access as able-bodied consumers. Plaintiff may also have to return to the hotel and the
23 north of San Francisco for purposes of joint site inspections, ENEs or other court-
24 related conferences and hearings. When she visits again, she will only visit the hotel at
25 issue if Defendant has provided proof of remediation.

15. It is impossible for Plaintiff to re-encounter the injury at bar. Either Defendant remediates thereby allowing Plaintiff equal access, or Defendant refuses to remediate thereby deterring Plaintiff from visiting again.

16. It is readily achievable to modify the hotel to provide full and equal access for persons in a wheelchair.

17. Without injunctive relief, Plaintiff and others will continue to be unable to independently use Defendant's hotel in violation of her rights under the ADA.

18. Other potential violations and barriers to entry at Defendant's hotel may be discovered during this litigation. It is Plaintiff's intention to cure all ADA violations at this hotel in one lawsuit, and so she will amend this Complaint pursuant to *Doran* if additional ADA violations are discovered during the case.

FIRST CAUSE OF ACTION

19. Plaintiff incorporates all allegations heretofore set forth.

20. Defendant has discriminated against Plaintiff and others in that it has failed to make its public lodging services fully accessible to, and independently usable by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and § 121282(b)(2)(iv), as described above.

21. Defendant has discriminated against Plaintiff in that it has failed to remove architectural barriers to make its lodging services fully accessible to, and independently usable by individuals who are disabled in violation of 42 U.S.C. §12182(b)(A)(iv), as described above. Compliance with the ADA would neither fundamentally alter the nature of Defendant's lodging services nor result in an undue burden to Defendant.

22. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv), as described above, is readily achievable by the Defendant. *Id.* Readily achievable means that providing access is easily accomplishable without significant difficulty or expense.

1 23. Defendant's conduct is ongoing, and, given that Defendant has never fully
2 complied with the ADA's requirements that public accommodations make lodging
3 services fully accessible to, and independently usable by, disabled individuals, Plaintiff
4 invokes her statutory right to declaratory and injunctive relief, as well as costs and
5 attorneys' fees.

6 24. Without the requested injunctive relief, specifically including the request
7 that the Court retain jurisdiction of this matter for a period to be determined after the
8 Defendant certifies that it is fully in compliance with the mandatory requirements of the
9 ADA that are discussed above, Defendant's non-compliance with the ADA's
10 requirements that its hotel be fully accessible to, and independently useable by, disabled
11 people is likely to recur.

12 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 13 a. A Declaratory Judgment that at the commencement of this action
14 Defendant was in violation of the specific requirements of Title III of the
15 ADA described above, and the relevant implementing regulations of the
16 ADA, in that Defendant took no action that was reasonably calculated to
17 ensure that all of its hotel is fully accessible to, and independently usable
18 by, disabled individuals;

19 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
20 36.504(a) which directs Defendant to take all steps necessary to bring its
21 hotel into full compliance with the ADA;

22 c. Payment of costs and attorney's fees;

23 d. The provision of whatever other relief the Court deems just, equitable and
24 appropriate.

SECOND CAUSE OF ACTION

26 || 25. Plaintiff realleges all allegations heretofore set forth.

1 26. Defendant has violated the Unruh by denying Plaintiff equal access to its
2 public accommodation on the basis of her disability as outlined above.

3 27. Unruh provides for declaratory and monetary relief to “aggrieved
4 persons” who suffer from discrimination on the basis of their disability.

5 28. Plaintiff has been damaged by the Defendant’s non-compliance with
6 Unruh.

7 29. Pursuant to Cal Civ. Code §52, Plaintiff is further entitled to such other
8 relief as the Court considers appropriate, including monetary damages in an amount of
9 \$4,000.00, and not more.

10 30. Pursuant to Unruh, Plaintiff is entitled to attorney’s fees and costs in an
11 amount to be proven at trial.

12 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 13 a. A Declaratory Judgment that at the commencement of this action
14 Defendant was in violation of the specific requirements of Unruh; and
- 15 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
16 36.504(a) which directs Defendant to take all steps necessary to bring its
17 hotel into full compliance with the ADA;
- 18 c. Payment of costs and attorney’s fees;
- 19 d. For damages in the amount of \$4,000.00, the statutory minimum, and not
20 more; and
- 21 e. The provision of whatever other relief the Court deems just, equitable and
22 appropriate.

23 **DEMAND FOR JURY TRIAL**

24 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby
25 demands a jury trial on issues triable by a jury.

26 RESPECTFULLY SUBMITTED this 16th day of August, 2020.

27 /s/ P. Kristofer Strojnik
28 P. Kristofer Strojnik (242728)
 Attorneys for Plaintiff

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 10th day of August, 2020.



Theresa Marie Brooke